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10/576,743	01/09/2007	John Hillel Moshal	06-278	8207
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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP			LIM, SENG HENG	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,743	<b>Applicant(s)</b> MOSHAL, JOHN HILLEL
	<b>Examiner</b> SENG H. LIM	<b>Art Unit</b> 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 February 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 26-40 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 26-40 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/11/08

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 26-40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakamoto (US 5,989,121) in view of Pease et al (5,326,104) and Crumby (US 6,533,664 B1).

Sakamoto teaches a gaming system and a method of operating the gaming system comprising: at least one player station (Fig. 1) and a software random event generator communicable with the at least one player station by means of a communication network, the random event generator being responsive to a request from the at least one player station to generate one or more random events upon which an outcome of the at least one game of chance is based (Fig. 4).

Sakamoto does not specifically disclose a secondary random event generator being activatable by the at least one player station to generate, in response to a request from the at least one player station, one or more random events upon which an outcome of the at least one game of chance is based; however, Sakamoto does disclose that the usage of a backup random number sampling operation is known in the art (6:18-26). Hence the gaming system would implicitly comprise of activating the secondary random event generator, which is implicitly communicable with the player station by means of the same communication network, when used as a backup.

Sakamoto does not disclose a gaming system in which the software random number generator is executable in a gaming server remote from the at least one player station.

Crumby discloses a gaming system in which the software random number generator is executable in a gaming server remote from the at least one player station (Fig. 3). Sakamoto and Crumby are analogous art because they are from the same field of gaming device with random number generator. At the time of invention a person of ordinary skill in the art would have found it obvious to apply Crumby's remote generator into Sakamoto because they are equivalent alternative design choice.

Sakamoto does not specifically disclose the gaming system to include a watchdog facility that detects failure of either one of the primary random number generator and the primary gaming server by transmitting a request data packet to the primary gaming server at regular intervals and monitoring each request data packet for a corresponding response from the primary gaming server within a predetermined time interval.

Crumby discloses a monitoring system (i.e. watchdog facility) that detects failure of either one of the primary random number generator and the primary gaming server by transmitting a request data packet to the primary gaming server at regular intervals and monitoring each request data packet for a corresponding response from the primary gaming server within a predetermined time interval. If the primary generator fails, the 'lost link' procedure will be implemented, which includes notifying the central computer and/or casino, and/or may display a signal light, generate a sound, and the like (6:64-7:16). At the time of invention a person of ordinary skill in the art would have found it obvious to apply Crumby's monitoring system into Sakamoto's system and would have been motivated to do so to detect failure of the primary generator.

Sakamoto does not specifically disclose a controller arranged to monitor a status of the primary random event generator and being arranged to automatically activate the secondary random event generator upon transition of the status of the primary random event generator from an active status to a failed status. However, the Office takes Official Notice that it is well known in the art that using a backup server, generator or the like, includes a monitoring features to detect the failure of the primary server and initiate the secondary server when the primary server fails (this can be seen in Pease et al, 18:43-49). At the time of invention a person of ordinary skill in the art would have found

it obvious to include the monitoring features when using a backup server and would have been motivated to do so to detect failure of the primary server.

Sakamoto does not disclose the gaming system in which the at least one player station is a computer workstation and the communication network is the Internet.

Crumby discloses that the gaming system can be in a context of other types of gaming such as personal computer based gaming and Internet gaming (9:24-26). At the time of invention a person of ordinary skill in the art would have found it obvious to make Sakamoto's gaming system to be available as an online game as that of Crumby's and would have been motivated to do so to provide more accessibility to players worldwide.

Sakamoto does not disclose system in which the primary and secondary gaming servers each have a corresponding storage memory and, synchronize data in their respective storage memories at predetermined intervals.

Pease et al disclose system in which the primary and secondary gaming servers each have a corresponding storage memory and mirror copy/synchronize data in their respective storage memories at predetermined intervals (18:18-22). Sakamoto and Pease et al are analogous art because they are from the same area of technical difficulty of having backup servers/generator. At the time of invention a person of ordinary skill in the art would have found it obvious to apply Pease et al's maintenance of mirror copy of data on each of Sakamoto's servers and would have been motivated to do so to continue play of the game without interrupting the players.

**Examiner's Note:** Examiner has cited particular paragraphs, figures, columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see attached USPTO form PTO-892.

### ***Response to Arguments***

Applicant's arguments filed February 8, 2008 have been fully considered but they are not persuasive. Applicant argues that:

"Crumbly discloses a determination of inactivity... but does not disclose the determination is made by transmitting a data packet at regular intervals." The Office disagrees. The gaming machine implicitly sends data packet to the RNG at regular intervals in order to determined inactivity of the RNG during the communication.

"Sakamoto, Pease, and Crumbly all fail to disclose a controller in the player station that performs this routing function [of routes the request to the primary gaming server when the status of the primary gaming server is active and routes the request to the secondary gaming server when the status of the primary gaming server is failed]."

The Office disagrees. As disclosed in Pease et al that while in normal operation the main server will control the operation of the game, in case of a failure in mail server, the backup or secondary server can take over operation of the game (18:43-49), which means all requests will be routed to the backup or secondary server when the main server fails.

"Sakamoto does not disclose any gaming servers separate from a player station because Sakamoto describes the operations within a single gaming machine." In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seng H. Lim whose telephone number is 571-270-3301. The examiner can normally be reached on 8:30-6:00, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. H. L./

Examiner, Art Unit 3714

/XUAN M. THAI/

Supervisory Patent Examiner, Art Unit 3714